

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TOBY KEVIN ANDERSON,

Petitioner,

v.

PATRICK GLEBE,

Respondent.

CASE NO. C13-5893 RJB/KLS

ORDER DENYING PETITIONER'S
MOTIONS FOR COUNSEL AND
EVIDENTIARY HEARING

Before the Court are Petitioner's motions for the appointment of counsel and for an evidentiary hearing. ECF Nos. 8 and 9, respectively. Under separate Order, the Court has directed service of the petition for writ of habeas corpus. The petition has not yet been served on Respondent and the time for Respondent to file an answer to the petition has not yet passed.

Having carefully reviewed Petitioner's motion, the Court **ORDERS** as follows:

There is no right to have counsel appointed in cases brought under 28 U.S.C. §2254, unless an evidentiary hearing is required or such appointment is "necessary for the effective utilization of discovery procedures." See *McCleskey v. Zant*, 499 U.S. 467, 495 (1991); *United States v. Duarte-Higareda*, 68 F.3d 369, 370 (9th Cir. 1995); *United States v. Angelone*, 894 F.2d 1129, 1130 (9th Cir. 1990); *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983); Rules Governing Section 2254 Cases in the United States District Courts 6(a) and 8(c). The Court also may appoint counsel "at any stage of the case if the interest of justice so require." *Weygandt*, 718 F.2d at 754. In deciding whether to appoint counsel, however, the Court "must evaluate the

1 likelihood of success on the merits as well as the ability of the petitioner to articulate his claims
2 pro se in light of the complexity of the legal issues involved.” *Id.*

3 Petitioner has not requested that he be allowed to conduct discovery in this matter, nor
4 does the Court find good cause for granting him leave to do so at this stage of the proceedings.
5 *See* Rule Governing Section 2254 Cases in the United States District Courts 6(a). In addition,
6 the Court has not determined that an evidentiary hearing will be required in this case, nor does it
7 appear one is needed at this point. *See* Rule Governing Section 2254 Cases in the United States
8 District Courts 8(c). Petitioner has not shown that his particular conditions of confinement are
9 such that “the interests of Justice” require appointment of counsel.

10 Accordingly, Petitioner’s motion for the appointment of counsel (ECF No. 8) and motion
11 for an evidentiary hearing (ECF No. 9) are **DENIED**.

12 The Clerk shall send a copy of this Order to Petitioner.

13 DATED this 28th day of October, 2013.

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15 
16 Karen L. Strombom
United States Magistrate Judge